IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11719 of 2001
with
CIVIL APPLICATION No.163 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

G.S.R.T.C.

Versus

SHANTILAL M. DALVADI

Appearance:

1. Special Civil Application No. 11719 of 2001

MR HARDIK C RAWAL for the Petitioner.

Mr.Songara for Mr.G.K. Rathod for the Respondent.

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 21/01/2003

ORAL JUDGEMENT

Gujarat State Road Transport Corporation

(hereinafter referred to as "the Corporation") has challenged the judgement and award passed in Reference (LCA) No.88 of 1999 dated 19th May 2001 by the Labour Court, Ahmedabad. The Corporation had imposed penalty of dismissal on the respondent herein on account of irregularity of non issuance of tickets to a group of 15 passengers having collected a fare of Rs.16/-, per passenger and also non issuance of tickets to two other passengers.

2. The learned Judge of the Labour Court after taking into consideration the rival contentions of both the sides was pleased to exercise discretion under section 11A of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act") and quashed and set aside the order of dismissal and ordered reinstatement without back wages and without consequential benefits, but with continuity of service on his original post of Conductor and ordered punishment of stoppage of four increments with future effect.

3. Mr.Rawal, the learned advocate appearing for the petitioner corporation submitted that the respondent workman is in service since 1988 and by 1997 there were as many as 14 defaults to his credit, of which 11 pertain to similar financial irregularities. He further submitted that taking into consideration the gravity of offence, the punishment of dismissal was just and proper. He submitted that the learned Judge has committed an error in exercising discretion under section 11A of the Act. Mr.Rawal submitted that in view of the latest judgement of this Court and the Honourable the Supreme Court, no interference was called for at the hands of the learned Judge of the Labour Court and the order of dismissal ought to have been sustained.

4. Mr.Songara, the learned advocate for Mr.Rathod appearing for the respondent workman submitted that the learned Judge has rightly taken into consideration the effect of punishment of dismissal which amounts to penalty of economic death, he further submitted that his client is ready to file an undertaking that he will not indulge in such irregularities in future and is also ready to accept enhanced punishment of stoppage of six increments in place of four.

5. Taking into consideration the rival contentions and taking into consideration the fact that the penalty of dismissal is economic death of the employee which works more harsh on the family members than the employee, it is deemed fit that the judgement and award so far as

it orders reinstatement be upheld on the same terms and conditions, i.e. without giving any back wages and without consequential benefits, but with continuity of service. However, the punishment of stoppage of four increments with future effect is enhanced to stoppage of six increments with future effect. Ordered accordingly. The petitioner corporation is directed to reinstate the respondent workman within four weeks from the date of receipt of this judgement. This order shall not be treated as a precedent.

6. The petition is disposed of accordingly. Rule is made absolute in the aforesaid terms. No order as to costs.

7. No orders on Civil Application No.163 of 2002. The same stands disposed of. Notice is discharged.

(Ravi R. Tripathi, J.)

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